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E.O. 12958: N/A

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SUBJECT: STIFLING DIALOGUE - WEB SITE BLOCKS REACH 1,187

REF: A. A. ANKARA 603

[B](#). B. ANKARA 306

[1](#). Summary and Comment: Since November 2007, the Government of Turkey (GOT) has blocked 1,187 Web sites and received 14,503 public complaints. Lawyers and technology reporters argue that the contentious 2007 law regulating Internet content establishes an outdated and unwieldy regulatory framework that restricts freedom of expression and is in some respects worse than the oppressive Internet censorship techniques used by China, Iran, and Saudi Arabia. The GOT's paternalistic approach to Internet regulation discourages dialogue between opposing positions, allowing disagreements and long-held positions to fester under the rug of censorship. An acknowledgement of the backwardness of the Internet regulation and a reworking of the judicial and regulatory approach to Internet regulation is necessary for Turkey to demonstrate a commitment to EU accession. End Summary.

#### Browsing the History of Turkish Internet Law

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[2](#). In explaining the historical approach to Internet law in Turkey, CNBC lawyer and Bianet writer Fikrit Ilkiz said that in 1998 lawyers and active members from Turkey's Internet community founded the Internet and Law Platform. According to member Ilkiz, the Platform educates lawmakers and the public about the Internet and lobbies for a positive legal approach that embraces the freedom of expression rather than a limitation of expression. The Platform also translated the Cyber Crime Agreement accepted by the continental European states into Turkish, he said; however, Turkey has yet to sign it.

[3](#). Ilkiz explained the GOT agreed in 2005 to create an Internet law and proposed the addition of a single article to the Press Law. The Platform protested the proposal, countering that an inclusive law addressing the Internet's broad definition and role was needed instead. Ilkiz said that the Platform and members of an Internet commission in the Justice Ministry worked for a year and a half to create such a law. At the time, he noted, the process to create a law that protected freedom of expression on the Internet was very participatory and energetic.

[4](#). In May 2007, according to Ilkiz the Ministry of Transportation and Communication proposed an alternative 14 articles to restrict Internet freedoms stemming from media attention on child pornography on the Web (Ref A). Ilkiz described the Parliament's decision to accept the Ministry of Transportation's proposal over the combined efforts of the Platform and the Ministry of Justice as one dictated by fears of public perception. A more democratic approach, he contended, would have harnessed the positive aspects of the Internet while limiting harmful content. Based on these 14

articles, the current Internet law allows for legal action against the content provider if a Web site includes or promotes any of the following:

- Child pornography
- Insulting Ataturk
- Suicide
- Illegal drugs
- Health hazards
- Obscenity
- Gambling

#### How to . . . Block a Web Site in Turkey

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15. Ilkiz and Radikal technology columnist Serdar Kuzuloglu explained that the law established a special telecommunications board, the TIB, dedicated to monitoring complaints related to Web site content. The TIB determines whether or not a complaint is valid and can block a Web site without a court procedure. However, they said, if a complaint pertains to other charges, such as a violation of Article 301 or personal insult, the case goes to court and the content provider's only means of unblocking the site is through a court decision. Between November 1, 2007 and November 1, 2008, the TIB received 14,503 complaints and 1,187 Web sites were blocked. Of that number, courts blocked 264 sites and TIB blocked 923 without judicial proceedings. Forty seven percent of TIB decisions pertained to child pornography, while 56 percent of court decisions involved other accusations, such as personal insults.

#### 16. The most prominent and long term Web site closure

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occurred in May 2008, when an Istanbul court closed the "YouTube" Web site to block a cartoon that lampooned Turkey's founding father, Ataturk (Ref A). "YouTube" remains blocked in Turkey and Ilkiz argued that instead of blocking the entire Web site, the GOT should instead correct, punish, or block the offending cartoon. "One should not close down an entire library because one finds a single book offensive." Kuzuloglu characterized such a broad block as a violation of the freedom of expression for the multiple unoffending authors on YouTube. "In this sense," he said, "I think we are becoming like China." He suspected that the GOT will keep the block in place until YouTube establishes a physical representative in Turkey for legal accountability.

17. Kuzuloglu said that the current form of the law fails to consider the international character of the Internet. The law mandates that an individual take responsibility for Internet content, requiring Web site proprietors to fill out an ID card on the Turkish Telecommunication (TTA) Authority's Web site. According to Kuzuloglu, the TTA can block any Web site without an ID card on file indiscriminately, even if the content provider is located outside Turkey. Instead of controlling public exposure to contentious ideas, he suggested the GOT instead use this as an opportunity to join a developed world concerned about universal challenges like child exploitation. The current approach, he argued, brings society down to the lowest common denominator instead of encouraging dialogue between opposing sides. "Banning is the national reflex," according to Kuzuloglu, and the GOT should allow the Turkish public to confront controversial issues.

#### Searching for Solutions

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18. Ilkiz predicts that judicial system's "gross ignorance of the technical aspects of the Internet" will force the GOT to revisit this issue soon. Under the current law, he explained, if a hacker added obscene material to a ministry's Web site as the content provider the ministry would be held responsible.

19. Ilkiz stressed the importance of an Internet-literate court, and Kuzuloglu suggested the creation of a special Internet court on which judges and prosecutors with Internet training would sit. He pointed to a recent case in which controversial antievolutionary author, Adnan Oktar, successfully petitioned the Silivri Court to block the Web site of major newspaper Vatan. Oktar's petition was based on a reader's critical comments submitted in the online version of the newspaper. Such an "ignorant" outcome would not be possible in a special Internet court, Kuzuloglu argued.

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